

Message Text

CONFIDENTIAL

PAGE 01 STATE 192923
ORIGIN ERDA-07

INFO OCT-01 ARA-10 EUR-12 ISO-00 OES-07 ACDA-07 PM-05
IO-13 L-03 CIAE-00 INR-07 NSAE-00 NSC-05 EB-08
NRC-05 DODE-00 SS-15 SP-02 FEA-01 SSO-00 INRE-00
NSCE-00 /108 R

DRAFTED BY USERDA:AIA BMCFADDEN:OGC:KIZELL:CKG:BJB
APPROVED BY OES/NET/IM: D B HOYLE
USERDA:AIA: G HELFRICH
ACDA: L GALLINI
PM/NPP: G OPLINGER
ARA/MEX: MR. BITNER
IO/SCT: J TREVITHICK
OES/NET/RD: J COON
L/OES: R BETTAUER

-----042787 151947Z /72

O R 151917Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA IMMEDIATE
INFO AMEMBASSY MEXICO

C O N F I D E N T I A L STATE 192923

USIAEA

E.O. 11652: GDS

TAGS: IAEA, TECH, PARM, MNUC, MX

SUBJECT: DRAFT AGREEMENT ON PROPOSED TRANSFER OF REACTOR
AND FUEL TO MEXICO

REF: A) VIENNA 6562; B) VIENNA 6591

1. SUMMARY. COMMENTS ARE GIVEN ON PROPOSED AGREEMENT
REVISIONS TRANSMITTED REFTELS. REFORMULATION OF ARTICLE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 192923

VI IS PROPOSED MEETING U.S. CONCERNS. END SUMMARY.

2. REGARDING ARTICLE VI PROVISION FOR U.S. FALLBACK
SAFEGUARDS RIGHTS, U.S. IS PREPARED ACCEPT IAEA PROPOSED
REVISION, PROVIDED MEXICO AGREES TO EXCHANGE WITH U.S., AT
TIME TRILATERAL SUPPLY-PROJECT AGREEMENT SIGNED, NOTES
SPELLING OUT THESE RIGHTS. MUST EMPHASIZE THAT REQUIREMENT

FOR EXPLICIT PROVISION FOR U.S. FALLBACK SAFEGUARDS RIGHTS DOES NOT REPRESENT ANY SINGLING OUT OF MEXICO OR EXPECTATION OF ANY NEED TO APPLY U.S. BILATERAL SAFEGUARDS. IT DERIVES FROM NEW U.S. POLICY UNDER WHICH REACTOR AND FUEL TRANSFERS MAY BE AUTHORIZED THROUGH IAEA ONLY IF THEY WILL BE SUBJECT TO SAME SUBSTANTIVE U.S. NON-PROLIFERATION CONTROLS AS WOULD APPLY IF SUCH ITEMS WERE TRANSFERRED UNDER BILATERAL AGREEMENTS WITH RECIPIENT COUNTRIES.

3. OTHER ARTICLE VI REVISIONS PROPOSED BY IAEA PRESENT DIFFICULTIES IN (A) LEAVING INSUFFICIENTLY CLEAR THE IAEA RIGHT TO CONTINUE APPLYING SAFEGUARDS UNDER OTHER ARRANGEMENTS (E.G., INFCIRC/66) IF MEXICAN NPT SAFEGUARDS AGREEMENT WERE TO BE TERMINATED, AND (B) OMITTING FROM SCOPE OF NON-COMPLIANCE PROVISION THE U.S. RETRANSFER CONTROL EMBODIED IN ARTICLE I.4. BELIEVE, HOWEVER, THAT U.S. CONCERNS CAN BE MET WITHOUT CONFLICTING WITH FISHER EVIDENT DESIRE TO AVOID MENTION OF THEORETICAL POSSIBILITY OF TERMINATION OF MEXICAN NPT AGREEMENT AND HIS DESIRE ALSO TO AVOID ANY APPARENT IAEA FAILURE TO CARRY OUT ITS STATUTORY RESPONSIBILITIES WITH RESPECT TO IAEA PROJECTS. FOLLOWING ARTICLE VI REFORMULATION IS PROPOSED:

QUOTE 1. MEXICO UNDERTAKES THAT THE SUPPLIED REACTOR, THE SUPPLIED MATERIAL AND ANY NUCLEAR MATERIAL CONTAINED, USED, PROCESSED, OR PRODUCED IN OR BY THE USE OF THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 192923

SUPPLIED REACTOR OR THE SUPPLIED MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF SPECIAL FISSIONABLE MATERIAL, SHALL NOT BE USED FOR THE MANUFACTURE OF ANY NUCLEAR WEAPON OR TO FURTHER ANY OTHER MILITARY PURPOSE OR FOR THE MANUFACTURE OF ANY NUCLEAR EXPLOSIVE DEVICE.

QUOTE 2. THE SUPPLIED REACTOR AND SUPPLIED MATERIAL AND ANY NUCLEAR MATERIAL CONTAINED, USED, PRODUCED OR PROCESSED IN OR BY THE USE OF THE SUPPLIED REACTOR OR SUPPLIED MATERIAL SHALL BE USED EXCLUSIVELY BY AND REMAIN AT THE MEXICAN NATIONAL POLYTECHNIC INSTITUTE UNLESS OTHERWISE AGREED BY THE PARTIES TO THIS AGREEMENT.

QUOTE 3. WHEN ANY OF THE SUPPLIED MATERIAL OR ANY SPECIAL FISSIONABLE MATERIAL CONTAINED, USED, PRODUCED OR PROCESSED IN OR BY THE USE OF THE SUPPLIED REACTOR OR THE SUPPLIED MATERIAL REQUIRES REPROCESSING, CONVERSION, FABRICATION, ALTERATION OR STORAGE, SUCH REPROCESSING, CONVERSION, FABRICATION, ALTERATION OR STORAGE SHALL BE PERFORMED UNDER CONDITIONS AND IN FACILITIES ACCEPTABLE TO ALL PARTIES TO THIS AGREEMENT. UNQUOTE. INSERTION OF
QUOTE NUCLEAR UNQUOTE IN LINE 1 OF THIS PARAGRAPH

(FORMERLY PARAGRAPH 4), AS REQUESTED REFTTEL B, SEEM IN-
APPROPRIATE IN VIEW OF DEFINITION IN ARTICLE I.3. FYI
WHILE ABOVE LANGUAGE IS PREFERRED FORMULATION RE RE-
PROCESSING, WE COULD ACCEPT ALTERNATIVE WORDING WHICH
WOULD CONCLUDE QUOTE...SHALL BE PERFORMED UNDER CONDITIONS
AND AS AGREED BY ALL PARTIES TO THIS AGREEMENT UNQUOTE
END FYI.

QUOTE 4. IT IS SPECIFIED THAT THE SAFEGUARDS RIGHTS AND
RESPONSIBILITIES OF THE AGENCY PROVIDED FOR IN PARAGRAPH
A OF ARTICLE XII OF ITS STATUTE ARE RELEVANT TO THE
PROJECT.

QUOTE 5. IT IS FURTHER SPECIFIED THAT THE IMPLEMENTATION
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 192923

OF THE AGENCY'S SAFEGUARDS RIGHTS AND RESPONSIBILITIES
CITED IN PARAGRAPH 4 OF THIS ARTICLE IS SATISFIED BY THE
APPLICATION OF SAFEGUARDS PROCEDURES PURSUANT TO THE
AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE INTER-
NATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF
SAFEGUARDS IN CONNECTION WITH THE TREATY FOR THE
PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA AND THE
TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS, SIGNED
ON 27 SEPTEMBER 1972 AND WHICH ENTERED INTO FORCE ON 14
SEPTEMBER 1973.

QUOTE 6. IN THE EVENT THE BOARD OF GOVERNORS OF THE
AGENCY DETERMINES THAT THE AGENCY IS FOR REASON UNABLE TO
APPLY SAFEGUARDS TO THE PROJECT, AS PROVIDED IN PARAGRAPH
5 OF THIS ARTICLE OR UNDER SUCH OTHER ARRANGEMENTS AS MAY
BE MADE FOR THE IMPLEMENTATION OF THE AGENCY'S RIGHTS
AND RESPONSIBILITIES CITED IN PARAGRAPH 4 OF THIS ARTICLE:
(SUBPARAGRAPH A) THE BOARD MAY CALL FOR THE RETURN OF THE
SUPPLIED REACTOR, THE SUPPLIED MATERIAL, AND ANY OTHER
NUCLEAR MATERIAL REFERRED TO IN PARAGRAPH 1 OF THIS
ARTICLE; AND (SUBPARAGRAPH B) REGARDLESS OF WHETHER THE
BOARD CALLS FOR SUCH RETURN, MEXICO AND THE UNITED STATES
SHALL IMPLEMENT FORTHWITH MEASURES TO VERIFY COMPLIANCE
WITH THE UNDERTAKING SET FORTH IN PARAGRAPH 1 OF THIS
ARTICLE. UNQUOTE. NOTE: WE HAVE REPLACED QUOTE REQUIRE
UNQUOTE WITH QUOTE CALL FOR UNQUOTE IN PRECEDING SENTENCE,
TO AVOID ANY APPARENT U.S. PRECOMMITMENT TO ACCEPT RETURN
OF ITEMS.

QUOTE 7. IN THE EVENT THE BOARD OF GOVERNORS OF THE AGENCY
DETERMINES, IN ACCORDANCE WITH ARTICLE XII.C OF THE
STATUTE, THAT THERE HAS BEEN ANY NON-COMPLIANCE WITH THIS
ARTICLE, THE BOARD SHALL CALL UPON MEXICO TO REMEDY SUCH
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 192923

NON-COMPLIANCE FORTHWITH, AND THE BOARD SHALL MAKE SUCH REPORTS AS IT DEEMS APPROPRIATE. IN THE EVENT OF FAILURE BY MEXICO TO TAKE FULLY CORRECTIVE ACTION WITHIN A REASONABLE TIME, THE BOARD MAY TAKE ANY OTHER MEASURES PROVIDED FOR IN ARTICLE XII.C OF THE STATUTE. UNQUOTE.

4. CONCUR IN PROPOSED STRENGTHENING OF ARTICLE XI REGARDING PHYSICAL PROTECTION. HOWEVER, FOR REASONS OF LOGIC, LINE 8 OF REFTEL A PARAGRAPH 2 REPHRASING THIS ARTICLE SHOULD BE REVISED TO READ QUOTE SUPPLIED MATERIAL AND ANY OTHER NUCLEAR MATERIAL WHICH IS UNQUOTE. FOR SAME REASONS, WE HAVE INSERTED QUOTE OTHER UNQUOTE BEFORE QUOTE NUCLEAR MATERIAL UNQUOTE IN ARTICLE VI PARAGRAPH 6 ABOVE.

5. OTHER MINOR CHANGES SPECIFIED REFTEL A PARAGRAPH 6 AND REFTEL B ARE ACCEPTABLE. DELETE ART. I.4 IN VIEW INSERTION IN ART. VI.

6. ARTICLE I PARAGRAPH 3 SHOULD BE REWRITTEN TO READ AS FOLLOWS: QUOTE IT IS UNDERSTOOD BY THE AGENCY, MEXICO AND THE UNITED STATES THAT EXCEPT AS SPECIFIED IN THIS AGREEMENT, THE UNITED STATES DOES NOT ASSUME ANY OBLIGATIONS OR RESPONSIBILITIES INsofar AS THE PROJECT IS CONCERNED. UNQUOTE.

7. RE. ARTICLE III PARAGRAPH 1: THE LAST TWO WORDS READING SUPPLIED MATERIAL SHOULD BE REWRITTEN TO READ AS FOLLOWS: QUOTE FUEL ELEMENTS (HEREINAFTER REFERRED TO AS QUOTE SUPPLIED MATERIAL UNQUOTE) END QUOTE.

8. ADVISE WHETHER FOREGOING PROPOSALS ARE ACCEPTABLE TO IAEA. IF SO, RECOMMEND IAEA START NEGOTIATIONS WITH GOM MISSION AS SOON AS POSSIBLE.

9. PROPOSED US-GOM EXCHANGE OF NOTES, REQUIRED AS STATED
CONFIDENTIAL

CONFIDENTIAL

PAGE 06 STATE 192923

PARAGRAPH 2 ABOVE, WOULD PRESUMABLY TAKE PLACE IN VIENNA. HOWEVER, US-GOM DISCUSSIONS THIS SUBJECT MAY BE APPROPRIATE IN MEXICO CITY AS WELL AS VIENNA. FOR PURPOSES OF SUCH DISCUSSIONS, WHICH SHOULD BE UNDERTAKEN ONLY IF AND AFTER IAEA ACCEPTS U.S. POSITIONS INDICATED ABOVE, PROPOSED NOTE TEXT WILL BE CABLED IN FEW DAYS. TEXT WILL GENERALLY FOLLOW LINES OF ARTICLE VI PARAGRAPH 3 IN

PREVIOUS VERSION OF TRILATERAL AGREEMENT, WITH CHANGES
TAKING INTO ACCOUNT BILATERAL NATURE OF NOTES.

10. DEPARTMENT REGRETS DELAY IN RESPONDING TO REFTELS AND
APPRECIATES MISSION'S PATIENCE AND UNDERSTANDING ON THIS
MATTER. VANCE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, FISSIONABLE MATERIALS TRANSFER, NUCLEAR FUELS, NUCLEAR REACTORS
Control Number: n/a
Copy: SINGLE
Sent Date: 15-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE192923
Document Source: CORE
Document Unique ID: 00
Drafter: AIA BMCFADDEN:OGC:KIZELL:CKG:BJB
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770294-0163
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770861/aaaabzez.tel
Line Count: 230
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 7f27635a-c288-dd11-92da-001cc4696bcc
Office: ORIGIN ERDA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 VIENNA 6562, 77 VIENNA 6591
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 07-Oct-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1600841
Secure: OPEN
Status: NATIVE
Subject: DRAFT AGREEMENT ON PROPOSED TRANSFER OF REACTOR AND FUEL TO MEXICO
TAGS: TECH, PARM, MNUC, MX, IAEA
To: VIENNA USIAEA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/7f27635a-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009